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## John R. Prew

### AREAS OF PRACTICE:

Product Liability  
Civil Litigation  
Construction Accidents and Defects  
Premise Liability  
Third-Party Auto  
Commercial/Contract Litigation  
Insurance Coverage  
Contract Disputes

### EDUCATION:

Detroit College of Law (J. D., *cum laude*, 1988)  
Detroit College of Law, Law Review 1986-1988  
Michigan State University, James Madison College (B.A.,  
1985)  
Naval Justice School 1989  
U.S. Marine Corps Basic School 1989, Honor Graduate

### BAR ADMISSIONS:

State Bar of Michigan 1988  
U.S. District Court for the Eastern District of Michigan  
1988  
U.S. Court of Appeals for the Sixth Circuit 2007  
U.S. Military Court of Appeals 1989  
U.S. District Court of Colorado 2004  
U.S. District Court for the Western District of Michigan  
2006  
Commonwealth of Kentucky, Knott Circuit Court 2006

### EMPLOYMENT:

Shareholder at Harvey Kruse, P.C. 2004-Present  
Associate Attorney at Harvey Kruse, P.C. 2000-2003  
Associate Attorney at Dawson & Clark 1995-2000  
Associate Attorney at Bigler, Berry, Johnston, Szykiel &  
Hunt, P.C. 1992-1995  
U.S.M.C.; Judge Advocate 1989-1992

### ACKNOWLEDGMENTS:

Martindale Hubbell Rating: A/V

### EXPERIENCE:

Trial and appellate attorney, successfully represented

numerous clients in circuit courts throughout the state of Michigan, United States District Court for the Eastern District and Western District of Michigan, Michigan Court of Appeals and Michigan Supreme Court; as a specialist in complex national product liability cases, Mr. Prew has also been admitted pro hac vice to handle cases in other states including West Virginia, Arizona, Florida, Pennsylvania, Mississippi, Missouri, Alabama, North Carolina and Colorado.

Obtained summary dispositions, successful verdicts and appellate decisions in numerous cases as outlined below.

Served as a judge advocate in the United States Marine Corps, honorably discharged having attained the rank of Major. Served as Review Officer for the Commanding General, Third Marine Aircraft Wing, and Commanding General, Marine Corps Air Station, El Toro, California. Acted as prosecutor handling special and general courts-martial, trying numerous jury and bench trials involving offenses including, but not limited to, conspiracy, aggravated assault, larceny, drug importation, drug use and distribution, and check and credit card fraud. One successful complex prosecution involving criminal conspiracy to commit check fraud was a basis for the award of the Navy Achievement Medal. Acted as the presiding officer in numerous Article 32 hearings which equate with grand jury proceedings. Attended the U.S. Attorney General's Trial Advocacy Course. Also served as the Staff Judge Advocate and Officer in Charge of the Joint Law Center at Marine Corps Air Station, Tustin, California, providing counsel to the station commander and tenant squadrons in all legal matters. Also acted as a Special Assistant, United States Attorney, prosecuting cases in the Federal District Court for the Central District of California, involving offenses committed by civilians while on board Marine Corps Air Stations El Toro and Tustin. While in the Marine Corps Reserve, served for a period of time as the Staff Judge Advocate for Marines located at Selfridge Air National Guard Base, Michigan.

Currently, Mr. Prew serves as national product liability counsel for several clients in litigation throughout the United States. His involvement in the defense of large, automotive component part suppliers on a national basis has allowed him to help shape the trends in product

liability throughout the United States. Mr. Prew is one of the pioneers in defending component part suppliers in product liability suits. Is also acting as national product liability counsel for Summit Treestands, LLC, defending it in suits filed throughout the United States. Mr. Prew has further utilized his product liability expertise and experience in the defense of other treestand manufacturers.

Mr. Prew also specializes in commercial litigation, and currently serves several clients in commercial disputes arising within the automotive field. Mr. Prew has successfully defended companies in commercial business and construction disputes alleging breach of contract, intentional interference with business relations, breach of warranty, and misrepresentation. In addition, Mr. Prew has obtained numerous restraining orders in cases preventing sub-component manufactures from refusing to ship on “just in time” requirements contracts due to the alleged rise in raw material steel costs.

**REPRESENTATIVE CLIENTS:**

The Ford Motor Company  
Steinman, Boynton, Gronquist and Birdsall  
Amerisure Insurance Companies  
Nationwide Insurance Company  
Scottsdale Insurance Company  
Liberty Mutual Group  
GMAC Insurance  
AlliedSignal  
Honeywell International, Inc.  
Key Safety Systems, Inc.  
Quality Safety Systems Co.  
Northland Insurance Company  
Underwriters at Lloyd’s, London  
Mazda Motor Corporation  
Game Tracker, Inc.  
Bendix Commercial Vehicle Systems, L.L.C.  
Summit Treestands, LLC  
Bass Pro, Inc.  
Gorilla, Inc.

**MEMBER:**

State Bar of Michigan  
Oakland County Bar Association  
Executive Board Member, Detroit Area Council, Boy  
Scouts of America

**MILITARY SERVICE:**

United States Marine Corps January 1989 – July 1992

**SIGNIFICANT CASES:**

*Van Syckle v Ford Motor Company*, Wayne County Circuit Court, defense verdict in a rear impact automobile negligence case against the operator of a vehicle owned by Ford Motor Company wherein plaintiff sought hundreds of thousands of dollars for permanent shoulder disabilities and resulted in surgery.

*Smith v Ford Motor Company*, Wayne County Circuit Court, intimately involved in obtaining a defense verdict for The Ford Motor Company in a wrongful death case wherein plaintiff's personal representative claimed product defects with respect to the seating system in a Ford Motor Company automobile.

*Williams v Ford Motor Company*, 1997 WL 33350573 (Mich. App. Apr. 15, 1997 (No. 171658)), rev. 457 Mich. 888, 586 NW2d 232 (1998), plaintiff suffered serious personal injuries following a single vehicle accident and filed suit claiming product defects in the steering components of a Ford Motor Company vehicle. The Oakland Circuit Court granted Ford's motion for summary disposition on the basis the claim was barred by a release. The Michigan Court of Appeals originally affirmed the grant of summary disposition on the basis the plaintiff failed to tender back the consideration received in exchange for the release. On rehearing, the Michigan Court of Appeals reversed itself finding plaintiff presented a material factual dispute regarding whether there was fraud in the execution of release foregoing the need to tender back the consideration to repudiate the release. The Michigan Supreme Court reversed the Michigan Court of Appeals decision (on rehearing) and reinstated the judgment of the trial court granting summary disposition for Ford.

*Blackshear v United Way*, Oakland County Circuit Court, premises liability claim in which the minor plaintiff was injured after a fall from playground equipment at an elementary school. We were successful in our motion for summary disposition that United Way had no liability for the alleged injury which did not occur during a United Way program.

*Dubowsky v General Motors Corporation and*

***Commercial Contracting Corporation***, Wayne County Circuit Court, construction accident claim in which plaintiff claimed he suffered a serious knee injury after being struck by a hi-lo while performing electrical work on behalf of a subcontractor at the General Motors Poletown Plant. We were successful in obtaining a dismissal of the claim against our client, commercial Contracting Corporation, on the basis that discovery revealed that the hi-lo did not belong to Commercial Contracting and that Commercial Contracting did not control or otherwise supervise the area where the accident occurred.

***Cleola Black v Nationwide Insurance Company***, 45-B District Court, claim by plaintiff for property damage benefits as a result of a house fire. We moved for dismissal due to the plaintiff's failure to provide discovery responses in response to a court order, and the case was dismissed with an award of costs to the defendant.

***State Farm Fire & Casualty Company v S. R. Jacobson Development Corp., et al***, Oakland County Circuit Court, defective construction case in which State Farm claimed its insured incurred property damages from soot as a result of a defective furnace system and condominium. We were successful in obtaining summary disposition on our cross-claim for complete indemnification against the co-defendant furnace installer resulting in an eventual settlement where our clients paid zero.

***Proffitt v Pulte Land Development Corporation, et al***, Washtenaw Circuit Court, nuisance/defective construction claim in which plaintiff suffered serious personal injuries, having tripped and fallen over a sidewalk discontinuity while attempting to avoid the base of a basketball stanchion. Plaintiff alleged that Pulte and its subcontractor, Rotondo Brothers Concrete Company, defectively constructed the subject sidewalk and created a nuisance. After the filing of our motion for summary disposition, we were able to obtain the dismissal of the concrete subcontractor, Rotondo, on the basis of the statute of repose. We also obtained summary disposition on behalf of Pulte on the basis that the height discontinuity was open and obvious and that Pulte was entitled to this defense since the sidewalk was a "simple

product”.

***Lofton v Schelde Enterprises, Inc./Bonfire Bistro Brewery***, Oakland County Circuit Court, premises liability claim in which the plaintiff alleged she misstepped and fell off of a single step in a restaurant due to poor lighting and poor interior design. We were successful in obtaining summary disposition for our client on the basis that the subject step was open and obvious.

***Bert v Ferguson Enterprises, Inc., et al***, Wayne County Circuit Court, three-vehicle intersection accident involving a bus, our client’s tractor trailer, and a third vehicle which ran a stop sign at a high rate of speed. After cross-examination of the plaintiff at deposition during which we exonerated our client’s driver of fault, an order of dismissal was entered with respect to our clients.

***Lakowsky v Comcast Cablevision***, 42<sup>nd</sup> Judicial District Court, claim by plaintiff for damages to a new home resulting from the alleged improper installation of cable products. After the filing of a motion to strike plaintiff’s complaint or for a more definitive statement, the Court entered an order striking plaintiff’s complaint.

***LeClair v Life Insurance Company of North America***, Delta County Circuit Court, an action seeking recovery of accidental death and dismemberment benefits. Plaintiff was working on a scaffold when it rolled into a hole, causing it to topple whereupon the plaintiff fell to the ground, suffering paraplegia as a result of a spinal cord injury. Plaintiff brought suit seeking benefits because of the injury to his spinal cord which resulted in loss of the functional use of his legs, thus sustaining a loss of two limbs by “severance at or above the wrist or ankle.” We were successful in obtaining summary disposition for our client arguing that the insured’s functional loss of his legs and feet due to his spinal injury was not equivalent to the loss of both feet “by severance at or above the ankle” as contemplated by the accidental insurance policy.

***Johnson v 7 D’s Towing and Storage, Inc., et al.***,

Wayne County Circuit Court, plaintiff claimed assault by an agent of 7 D's Towing and intentional infliction of emotional distress following the plaintiff's arrest for stealing car parts from 7 D's Towing facility. After obtaining a discovery order against the plaintiff and the filing of a motion to dismiss for violations of said order, the case settled for a very nominal amount.

***Northfield Insurance Company and Underwriters at Lloyd's London v Arthur Hills & Associates, et al.***, Wayne County Circuit Court, an action on behalf of plaintiff insurance carriers for equitable subrogation and indemnification for expenses, costs and proceeds paid to defend and settle underlying lawsuits filed by property owners adjacent to a City of Taylor golf course which, after construction, caused water runoff onto the adjoining property, flooding the same and rendering it unsuitable for building. In the underlying litigation, Arthur Hills & Associates refused to defend and/or contribute to the settlement. After protracted litigation in both state and federal court, the case settled for an amount in the multiple six figures.

***Norlock v Essco, L.L.C., et al.***, Oakland County Circuit Court, a premise liability action wherein the plaintiff purportedly slipped and fell on "black ice" located on a sidewalk owned and controlled by the City of Birmingham and located in front of the defendant's building. We moved for summary disposition, arguing our client had no duty to maintain the publicly-owned sidewalk abutting its property, our client had no notice of the purported "black ice" condition or, in the alternative, the "black ice" was open and obvious. Prior to the hearing, plaintiff settled for a very nominal amount.

***Estate of Mary Jackson v Williams Lake Development, et al.***, Oakland County Circuit Court, a wrongful death and property damage action wherein plaintiff sought damages following the flooding of plaintiff's decedent's condominium as the result of heavy rainstorms. Plaintiff's decedent was the owner and residing in a condominium located within defendant's development which was still undergoing development. Plaintiff alleged that as a result of improper site design, improper grading and drainage and poor site maintenance, a catch basin overflowed and backed up, flooding the decedent's

condominium. As a result of the flooding, plaintiff alleged lost value to the value of the property, damages to personal property and that decedent's forced evacuation of the premises hastened the decedent's death. We obtained summary disposition for our client establishing plaintiff failed to produce the necessary evidence to support the claims for economic and non-economic loss and Michigan case law did not support sentimental/emotional distress damages for loss of use or damage to property.

***Sylvan Township v Kvetko, et al.***, Washtenaw County Circuit Court, a construction defect case wherein plaintiff claimed our client, third-party defendant, Rothenberger Company, Inc., should be liable for any damages arising from defendant's counter-claim for constitutional takings and trespass based on the alleged defective installation of a sewer service line adjacent to defendants' property. We successfully moved for summary disposition arguing our client owed no duty to plaintiff and that, even assuming such a duty existed, any claims of defective installation of the sewer line failed on a matter of law.

***Gary Fannon and Karen Fannon, Individually and as Next Friends of W.F. and O.F., minors v Bass Pro, Inc., et al.*** Claim by the plaintiff, Gary Fannon, that a tree stand from which he was hunting was defective because a strap holding it to a tree broke while he was sitting in it, resulting in his fall to the ground and subsequent paraplegia. It was alleged that our clients, Bass Pro, Inc., and Bass Pro Outdoor World, L.L.C., purportedly sold the subject tree stand and its securing strap. After engaging in discovery and obtaining an affidavit from the actual designer of the subject tree stand, a motion for summary judgment was filed on behalf of Bass Pro, Inc., and Bass Pro Outdoor World, L.L.C., on the basis that neither entity sold, supplied, distributed or otherwise placed into the stream of commerce the aforementioned products. Subsequent to the filing of the motion for summary judgment, the subject case was dismissed without prejudice.

***Hedley v Frank Rewold & Sons, Inc., Royal Roofing, Inc., et al.*** This case involved a claim by the plaintiff, Larry Hedley, a volunteer for the Apostolic Church of Christ construction project. Mr. Hedley had climbed a

14-foot steel ladder and, while attempting to close a scuttle door, fell to the concrete floor, suffering alleged severe personal injuries. While attempting to close the scuttle door, a gripper sleeve on the closing handle slipped off, contributing to the plaintiff losing his balance and falling to the floor. Plaintiff filed suit against a number of different entities, including our client, Frank Rewold & Son, Inc., the construction manager, and Royal Roofing Company, Inc., the entity which installed the scuttle door. Plaintiffs alleged there were defects with regard to the design of the steel ladder in conjunction with the orientation of the scuttle door, as well as negligence in the installation thereof. The trial court granted summary disposition on behalf of Frank Rewold & Son, Inc., on the basis that the alleged danger was not readily observable and that the accident in this case did not happen from a violation of the construction manager's duty as set forth in various controlling Michigan construction accident cases. Royal Roofing Company, Inc., was also granted summary disposition on the basis the plaintiff failed to show that it did not use due care in installing the hatch.

***Tearra Lofton, as Personal Representative of the Estate of Mychal Matthews, Deceased, v Detroit Board of Education, Detroit Public Schools, et al.*** This case arose from allegations that a 16-year-old boy, a severely mentally and physically handicapped "special needs student", was choked to death while wearing his doctor-approved safety vest and while riding on a school bus owned by the Detroit Public Schools. Plaintiff alleged that the defendants, along with two of its employees, were negligent and violated his constitutional rights under 42 USC §1983. After extensive discovery, defendants filed a motion for summary disposition on the basis the state law claims against the defendant employees were barred by governmental immunity, the defendants did not deprive the decedent of his due process rights guaranteed by the 14<sup>th</sup> Amendment and that the plaintiff lacked standing since there was no person who could actually recover damages under the Wrongful Death Act. The trial court agreed with the defendants and entered an order granting the defendant's motion for summary disposition. The decision of the trial court was affirmed by the Michigan Court of Appeals.

**PANELIST:**

*Treestand Manufacturers Task Force: Efficacy of Fall Prevention Devices.* In-house training seminars for clients addressing: advertising review guidelines, guidelines for written communications, record retention, product liability issues for engineers and managers, acting as the in-house “expert witness” and testifying as a corporate representative.